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December 13, 2019

The Honorable John H. Guthmann
Ramsey County District Court
1470 Ramsey County Courthouse
15 Kellogg Boulevard West
St. Paul, MN 55102

Re: Ramsey County Court File No. 62-CV-19-4626

Dear Judge Guthmann:

On behalf of Respondent Minnesota Pollution Control Agency (“MPCA”), we write in response to Relators letter dated December 12, 2019.

I. Summary of MPCA’s Response

A. MPCA’s Attorney Work Product Notes – Privilege Log No. 301

Despite earlier representations to MPCA and the Court that they only sought select notes on specific dates, Relators now contend that *all* of Michael Schmidt’s notes in Privilege Log No. 301 should be disclosed. Relators have not even attempted to show a “substantial need” for these notes or “undue hardship.” In any event, Mr. Schmidt’s notes reflect his mental processes and constitute opinion work product, which is subject to the highest protection, and “enjoys almost absolute immunity.”

B. Relators’ Demand for In Camera Review of 43 Other Documents

After three sequential rounds of review, MPCA has provided responses to Relators on over 400 separate Privilege Log entries. After the latest round, Relators’ continue to challenge MPCA’s privilege claims on 44 documents. Relators speculate wildly as to these documents and demand in camera review, but have not even attempted to show a “substantial need” for these documents or “undue hardship.”

C. Relators’ Untimely Objection to the Agreed-Upon Third Party Vendor (Xact)’s Performance of Responsiveness and Privilege Review

The parties agreed to retain Xact as the third-party forensic discovery vendor. The Parties were required to reach agreement on, among other things, a procedure for protecting privileged documents, or to submit letters to the Court summarizing their positions by 4:30 p.m. on November 29. MPCA proposed having Xact conduct the privileged document review. Relators

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never raised objections with MPCA and made no timely submission to the Court. Moreover, Xact's document review does not create a conflict of interest, nor does it prejudice Relators in any way.

D. Relators Demand for Broader Search Terms

MPCA has made repeated attempts to accommodate Relators' concerns regarding search terms. Relators continue to insist on terms that are vastly overbroad and inconsistent with the proportionality requirements under Minnesota discovery. Further, Relators seek to *add* terms that reflect no meaningful effort to seek responsive documents. MPCA respectfully requests that the Court direct use of the search terms contained in MPCA's most recent (December 10) proposal designed to accommodate Relators' concerns and to achieve a compromise. Relators refused to respond to this proposal, shutting down negotiations on search terms.

II. MPCA Response

A. Response to Relators' Motion for In Camera Review of Privilege Log Number 301

Relators have acknowledged that Michael Schmidt's notes in Document 301 are attorney work-product. *See* Nov. 13, 2019 Transcript at 83 ("And Relators are not saying this is not work product.").¹ They nonetheless claim a need for Mr. Schmidt's work-product for September 27, 2019 and April 5, 2019. *See Id.* at 82-83. Specifically, Relators argued that "[T]here are two very important documents authored by Michael [Schmidt], and those are summaries of April 17, 2018, and *September 27, 2018*."² And in the case of April 17, that is the only remaining documentation from the critical time when EPA read its comments on the draft PolyMet permit aloud to MPCA *on April 5*." (emphasis added). Relators did *not* claim substantial need or hardship for other elements of Mr. Schmidt's work product; and they never asserted a dire need for notes from other days.

Despite significant arguments supporting opposition to Relators' position, (*see infra* at 2-3), MPCA agreed to – and did – produce Mr. Schmidt's notes for the two days at issue.

At the December 6 telephonic hearing, Relators expanded their demand. Relators argued that they should be allowed to view Mr. Schmidt's attorney work-product from other meeting days. Relators had previously made no such demand but MPCA nonetheless agreed to provide a list of the days of Mr. Schmidt's notes on meetings. Relators now assert a newfound substantial need

¹ Relators went on to argue that, "What we're saying is that there's a substantial need and that it would be a hardship because this information is not available from any other source." *Id.* at 83.

² Relators elaborated in the hearing that, "Mr. [Schmidt] provided a very important document that is referenced over and over in the privilege log. It is a document dated September 27 immediately after the big meeting between EPA and PCA on September 26." *Id.* at 84.



for *all* the dates covered in Mr. Schmidt's notes and request in camera review of all of these notes. MPCA respectfully opposes Relators' invasion of attorney work-product.

MPCA submits that the Court should deny Relators' request for in camera review of Privilege Log Number 301 because MPCA's counsel's notes from these meetings were taken in anticipation of litigation and are opinion work product.³ To recap the tenets of the work-product doctrine, there are two types of work product: (1) "ordinary" work product, which includes raw factual information; and (2) "opinion" work product, which includes a lawyer's mental impressions, conclusions, opinion, or legal theories. *Baker v. General Motors Corp.*, 209 F.3d 1051, 1053-54 (8th Cir. 2000); *see also* Minn. R. Civ. P. 26.02(d). Ordinary work product must be produced *only if* the demanding party proves a "substantial need" for the information and establishes "undue hardship" absent disclosure. Minn. R. Civ. P. 26.02(d). By contrast, opinion work product "enjoys almost absolute immunity and can be discovered only in very rare and extraordinary circumstances, such as when the material demonstrates that an attorney engaged in illegal conduct or fraud." *Baker*, 209 F.3d at 1054; Minn. R. Civ. P. 26.02(d) ("In ordering discovery of such materials when the required [substantial need and undue hardship] showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.").

Examples of opinion work product include notes and memoranda of a party's attorney or agent from a witness interview, and the selection and compilation of documents in preparation for trial. *Baker*, 209 F.3d 1053–1054 (citing *Petersen v. Douglas Co. Bank & Trust Co.*, 967 F.2d 1186, 1189 (8th Cir. 1992) (mere acknowledgment of attorney's selection and compilation of business records in preparation for litigation would reveal mental impressions concerning the potential litigation); *Upjohn Co. v. United States*, 449 U.S. 383, 399–400 (1981) ("[f]orcing an attorney to disclose notes and memoranda of witnesses' oral statements is particularly disfavored because it tends to reveal the attorney's mental processes"))).

As the Eighth Circuit explained in *Baker*, "attorney notes reveal an attorney's legal conclusions because, when taking notes, an attorney often focuses on those facts that she deems legally significant." *Id.* Thus, an attorney's choice to record certain facts or statements and not others tends to reveal the attorney's opinions, theories, and legal strategies, which are all protected opinion work product.

Here, Mr. Schmidt's notes are his "mental impressions" that "enjoy almost absolute immunity." Relators have no grounds for further inquiry into this opinion work-product. Accordingly, this Court should deny Relators access to the remainder of Mr. Schmidt's notes in Privilege Log Number 301.

³ Privilege Log Number 301 consists entirely of MPCA counsel Michael Schmidt's personal notes, maintained in MPCA's Legal Department files, and comprising counsel's mental impressions, as Relators have acknowledged.



B. Response to Relators' Motion for In Camera Review of 43 Other Documents on MPCA's Privilege Log⁴

On November 11, 2019, Relators' raised issues with approximately 350 documents on MPCA's privilege log. MPCA reviewed all of the challenged documents, produced an updated privilege log responding to each of the items flagged by Relators, and produced 196 of the challenged documents.⁵

On November 27, 2019, Relators asserted additional challenges to 63 documents on MPCA's privilege log (Relators had previously challenged 30 of these documents and the additional 33 challenged documents were added to MPCA's privilege log on November 26, 2019 following an additional production of documents). Relators' basis for challenging these documents was that they were "likely to have segregable, if any, privileged content."

MPCA again reviewed all of the challenged documents, produced an updated privilege log further clarifying the basis for the privilege claimed, and produced 20 of the challenged documents, some with limited redactions. Relators now use MPCA's good faith effort in addressing Relators' concerns to rationalize their demand for *in camera* review of all 43 documents MPCA did not produce, regardless of the documents' indicia of privilege. This position is unfounded.

MPCA's attempts to compromise and address Relators' professed concerns are simply met with increasingly expanding demands. Relators have made it clear that no actions on the part of MPCA to clarify and explain the privilege basis for these documents will satisfy them. Indeed, MPCA previously explained that many of the challenged documents are not even relevant to Relators' claims. Relators now speculate wildly as to the contents of these privileged documents in an attempt to establish substantial need for the documents. Relators' speculations fail to establish the requisite substantial need and their motion for *in camera* review should therefore be denied.

⁴ The 44 privilege log entries for the documents Relators highlight in Exhibit 3 of their December 12, 2019 Letter (including Privilege Log Number 301) are included in **Exhibit A** for ease of reference.

⁵ These included documents that upon further review are not privileged for various reasons, documents to which only the deliberative process privilege applies, and redacted copies of the two documents for which Relators claimed a substantial need (including Privilege Log Number 301). For documents not produced, MPCA provided additional information to clarify the basis for withholding the document (e.g., where a document was prepared by a non-attorney but at the request of, and under the direction of counsel), or corrected entry information (e.g., an incorrect date or other descriptive information).



C. Response to Relators' Motion regarding MPCA's retention of Xact for Document Review Services

1. Retention of Xact

Per the Court's instructions in the Pre-Hearing Conference, and in its November 19th Order ("Order"), by the end of the first week after the Pre-Hearing Conference (Friday, November 22), the parties were to agree on Privilege Log issues and the retention of a third-party vendor to conduct the required forensic search, or to file separate proposals with the Court outlining their respective positions. Order at 10(d) ("If the parties cannot agree on an expert by November 22, 2019 at 4:30 p.m., the court will choose the expert based upon the written submissions of the parties. The written submission shall be filed no later than November 22, 2019 at 4:30 p.m.").

Accordingly, during that week, the parties conferred on retention of a third-party service to conduct the forensic search. Relators identified their preferred vendor. MPCA identified four firms and explained that any one of those firms would be acceptable. From those four firms, Relators selected Xact, and the parties mutually agreed to retain Xact for the forensic search. Neither party filed submissions with the Court on the issue of selection of the third-party forensic search vendor. Xact provided three-way agreements to MPCA and Relators. MPCA entered into this agreement with Xact, and Xact worked with MPCA and Relators to arrange for the forensic search and retrieval of data.

Under Paragraphs (e) and (f) of the Order, by the end of the second week after the Pre-Hearing Conference (Friday, November 29), the parties were to agree on whether any existing forensic searches should be relied upon, the desktop/laptops and servers to be searched, all search terms, whether to make a forensic copy of the devices to be searched, and ***a procedure to identify and protect privileged documents***. See Order at 10(e) and (f). If the parties could not agree on these items, they were to provide the Court with a letter of less than three pages **by 4:30 p.m. on November 29, 2019**, and the Court would decide based solely on that written submission.

After addressing meet-and-confer requirements regarding any prior MPCA forensic searches, Paragraph (e) directs that "If the parties cannot agree on the next step in the forensic search process, they shall so advise the court in a letter no greater than three pages in length that is submitted by November 29, 2019 at 4:30 p.m. Based solely on the written submissions the court will decide the next step in the forensic search process." Paragraph (f) in turn identifies additional issues that must be decided by that same date – November 29, 2019 at 4:30 p.m. It goes on to provide that "If the parties cannot agree on these issues, the court will decide the issues based upon the written submissions of the parties. **See paragraph 10(e), supra.**" Order at 10(f) (emphasis supplied).

On November 27, 2019, MPCA proposed using Xact for purposes of reviewing documents identified in the search for privilege, suggesting that a proposal be obtained from Xact regarding "how best to identify and protect privileged document" and understood that Relators agreed. Despite the Court's Order specifying that disputes about the privilege review process must be



resolved by November 29 or raised in a letter of that date to the Court, Relators raised no questions about Xact performing privilege review in its November 29 submission. The parties did not further discuss review of documents identified in the forensic search for privilege or responsiveness prior to the December 6, 2019 hearing, instead focusing on reaching an agreement as to forensic search terms. The parties were unable to agree on search terms by the Court's November 29, 2019 deadline, necessitating the December 6, 2019 telephonic hearing. While Relators may now suggest otherwise, it was clear in the December 6, 2019 hearing that Relators expected MPCA to have a review for responsiveness and privilege performed prior to producing documents to Relators. Given the Court's December 16, 2019 deadline for production of documents pursuant to the forensic search, Xact was the only possible option to perform document review services given the parties inability to agree on proposed search terms.

MPCA never suggested, nor would it expect, that Relators would pay for this function, particularly because the cost for this review on such a short-term basis, depending upon the search terms involved, could run close to \$200,000, and because the Court had directed that only the costs of the "forensic search" itself, and not the subsequent document review and production, would be shared.

As MPCA counsel explained in the recent telephonic hearing, MPCA had Xact perform the ministerial function of using Relators' proposed search terms (as submitted to the Court on November 29, 2019) against the collected data on December 6, 2019. This was necessary to have an idea as to the extent of possible documents that would need to be reviewed and to determine the number of reviewers that would be needed to complete the review by December 13th (Completion of review by December 13th is necessary to be able to produce the documents by the Court's December 16th deadline). As we have made clear to Relators before, if Relators wish to request comparable inquiries of Xact at their expense, MPCA obviously would not object.

Based on the documents collected and Relators' proposed search terms, Xact estimated that 20-40 contract attorneys would be necessary for review and that MPCA would incur expenses in the range of \$80,000-\$120,000. Having been informed by Xact that they would be unable to complete the review in time for production on the Court's deadline if review was not started Monday, December 9th, Relators also charged Xact with beginning review of the MPCA documents identified in response to search terms to which the parties agree with the understanding that if and when additional search terms are agreed upon or ordered, Xact can pull any additional documents yielded by those terms and add those additional documents to their review.



2. *MPCA's retention of Xact does not create a conflict of interest*

Xact's performance of separate functions, (i) collecting data and (ii) reviewing the data for privilege and responsiveness, conducted by separate, segregated groups does not create a conflict of interest. *See Exhibit B* (December 11, 2019 Email from Xact confirm separation)⁶

First, Relators' misinterpret the Xact contract's conflict of interest provision. This paragraph contains language intended for a setting where Xact is retained by only one of the litigants. It requires, for example, that the retaining law firms "inform Xact . . . of such Proceedings and the parties adverse to Client and Law Firms." In turn, "if Xact is aware that it already represents an identified adverse party, Xact shall disclose that representation . . ." Here, both the Parties and Xact recognize that the Parties are adverse, and this provision plainly does not apply in a setting where the only joint engagement is for collecting information. It is also worth noting that Relators have not actually executed the contract with Xact. *See Relators' Exhibit 7.*

Necessarily, what Xact does may have a negative effect on a party. For example, if Xact turns up a document that somehow supports one of Relators' theories regarding procedural irregularities, then, by Relators' reasoning, Xact will have performed a function that is adverse to MPCA and therefore has developed a conflict of interest with MPCA. Yet, such a result can be anticipated and does not create some sort of conflict that would prevent Xact from performing the functions the Court has mandated. Nor does MPCA's communications with Xact regarding the MPCA document review create a conflict of interest. Necessarily, MPCA must have conversations with Xact. Xact is reviewing MPCA documents collected from MPCA computers and servers. Relators counsel has also separately communicated with Xact representatives. Indeed, Relators' counsel communicated with Xact representatives without MPCA counsel even after raising the "conflict of interest" issue with MPCA counsel.

Second, contrary to Relators' assertions, Xact has *not* provided any legal services regarding search terms for MPCA. In the December 6, 2019 hearing, counsel for MPCA explained that MPCA had Xact run a search of the collected data on December 6, 2019 using Relators' proposed search terms submitted to the Court on November 29, 2019, which yielded 28,120 documents. Xact provided no analysis, comment or feedback regarding Relators' proposed search terms.

All references MPCA made at the telephonic hearing regarding document responsiveness referred to searches MPCA performed on the 13,000 documents MPCA **previously** collected and reviewed for responsiveness in October. These documents are completely separate from the forensic collection performed by Xact. These documents were reviewed for responsiveness in October with all responsive documents either produced to Relators or identified on MPCA's privilege log. To illustrate the overbreadth of Relators' proposed search terms, MPCA's counsel explained at the telephonic hearing that of the 13,000 documents MPCA previously collected

⁶ The first email in this string was forwarded to Relators' counsel and is attached to this letter as **Exhibit C**.



(based on more limited search terms than those proposed by Relators) and reviewed, only 2,500 documents were responsive. Using these 13,000 previously collected and reviewed documents, MPCA searched for several of Relators proposed search terms to see how many documents were identified and how many of those were actually responsive.⁷ The examples regarding responsiveness of Relators' proposed search terms had nothing to do with any actions by Xact.

Any analysis as to scope of proposed search terms has been performed by Holland & Hart attorneys based on the search Xact ran using Relators' November 29 proposed search terms and the documents MPCA previously collected, reviewed and produced.

Last but not least, Relators have failed to identify any possible prejudice or breach of confidence that could result from Xact conducting the required document review after having completed the forensic discovery collection on behalf of both Parties. Xact does not hold any confidences of Relators, nor did Xact's work on behalf of both Relators and MPCA involve any legal advice or representation.

3. *MPCA's proposal for relieving any perceived conflict of interest*

MPCA continues to hope that the parties can reach a reasonable resolution of these issues that will achieve Relators' stated objectives in requesting the forensic search. *See* Relators' November 11, 2019 Letter to the Court ("The Court should order MPCA to perform a thorough search not only of computers used by Ms. Lotthammer, Mr. Stine, and Ms. Foss from July 2016 through December 2018 but also of MPCA servers.").

MPCA is willing to assume the entire cost of Xact and relieve Relators of any relationship that gives rise to what Xact perceives to be an irreconcilable conflict. This approach is easy to effectuate as Relators have not yet signed the contract with Xact⁸ and do not currently have a contractual relationship with the company.

D. Response to Relators' Motion for Order to Use Relators' Proposed Search Terms and Motion to Use MPCA's Amended Proposed Search Terms⁹

Minnesota Rule of Civil Procedure 26.02(b) allows parties to "obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and **proportional to the needs of the case.**" Relators' never proposed search terms proportional to the needs of this case, instead insisting that expansive search terms are necessary to ensure no potentially responsive document is missed regardless of the burden this creates on MPCA. *See Third Wave Systems, Inc. v Marusich*, No. 27-CV-15-13883, 2017 WL 1089059, at *3 (Minn. Dist. Ct. Jan. 26, 2017)

⁷ For example, 1,179 documents out of the 13,000 MPCA previously reviewed contained "Ann" and only 295 of those documents were responsive.

⁸ *See* Relators Exhibit 7.

⁹ *See* **Exhibit C**, p. 3. MPCA expects to be able to produce the responsive documents identified by these search terms on December 16, 2019 as required by the Court's order.



(limiting search terms based on Minnesota R. Civ. P. 26.02' "mandate of proportionality").¹⁰ As a state agency that handles sensitive information for Minnesota citizens, MPCA cannot simply turn over large swathes of documents without having reviewed them. Nor do Relators expect MPCA to produce all of the tens of thousands of documents that contain any of Relators expansive search terms, repeatedly noting at the hearing they only expected MPCA to produce responsive documents.

MPCA provided Relators with a revised list of proposed search terms on December 9, 2019, which attempted to incorporate a majority of the search terms Relators proposed in their November 29, 2019 list of search terms. Relators also provided a revised list of search terms on December 9, 2019. While Relators' December 9 proposed search term list added qualifiers to Relators' most expansive proposed search terms (e.g., "epa.gov" and "Region 5"), it also added several new search terms (e.g., "Chris", "Martin", "Cliffs", "Clean Water Act" and enforce, "Data Practice!" and PM!, DPA and PM, shannon.lotthammer@state.mn.us) and removed qualifiers on other terms.

Nevertheless, MPCA reviewed Relators' December 9 proposed search term list and further compromised by adopting even more of Relators' proposed search terms. Exhibit D (MPCA's redline of changes to Relators' December 9 proposed search terms, which was sent to Relators on December 10, 2019). As shown in **Exhibit D**,¹¹ MPCA's December 10 proposed search term list adopted the vast majority of Relators search terms (even though MPCA maintains that many of the terms it agreed to were still overly broad and unrelated to the issues in this case). As MPCA explained to Relators, MPCA's fundamental changes to Relators' December 9 proposed search terms are as follows:

- Deleted single first names and names that are common that do not have a qualifier.¹²

¹⁰ In this setting, particular care should be taken to avoid disproportionate discovery. The case pending before the Court of Appeals must be decided on an administrative record and the statute authorizing the current referral does not permit extensive discovery. Indeed, the Minnesota Supreme Court has declined to authorize extensive discovery and Relators have no authority for the expansive discovery they seek. *E.g., Mampel v. E. Heights State Bank of St. Paul*, 254 N.W.2d 375, 377-78 (Minn. 1977).

¹¹ A list of the individual search terms the parties have agreed to is included in **Exhibit E**.

¹² MPCA explained that if Relators would like to search just for non-unique first names, then there must be specific qualifiers tying the first name to Relators' document requests. Alternatively, MPCA suggested that another option would be to frame these name searches as "Ann w/in 2 Foss," which would capture all communications from targeted state employees given state emails (e.g., ann.foss@state.mn.us). Relators never responded to these suggested compromises.



- Added qualifiers to all attorney names listed.¹³
- Added qualifiers to limited MPCA personnel (“Michelle Beeman,” “Rebecca Flood”, (“Stephanie Handeland”, Steph, Stephanie or Handeland).¹⁴
- Deleted “PM!” as a qualifier and replaced with “PMet” because “PM” may identify documents referencing the time, i.e. “2:00 PM.”

Relators did not respond to MPCA’s December 10, 2019 proposed search terms and informed MPCA the next day that it would cease further negotiations with MPCA regarding the proposed search terms.

With extensive document review still required to meet the Court’s deadline, MPCA asked Xact to run and then promote for review the documents identified by the search terms in MPCA’s December 10 proposed search term list. **Exhibit C.** MPCA forwarded this communication to Relators’ counsel. *Id.*

III. Conclusion

MPCA has taken every reasonable effort to resolve Relators’ discovery complaints:

- i. Though it was not required, MPCA produced attorney work-product for the two dates that Relators claimed substantial need. Relators have no authority for further invasion of attorney work-product, particularly when, as here, the opinion work-product has near absolute immunity from discovery.
- ii. The Parties agreed to retain Xact as its contractor and Relators chose not to raise any concern for conflict prior to the Court’s November 29 deadline. Xact’s personnel who collect documents are separate from those who would review them; the contractor has instructed its personnel to assure that this separation does not create the ephemeral conflict Relators assert. Xact distinctly has *not* provided legal services adverse to Relators. To resolve Relators’ unfounded complaint, MPCA proposes to bear the *entire* expense and contract for Xact thereby eliminating any basis for Relators’ claims.

¹³ MPCA explained that this was necessary given the short time period for review of potentially privileged documents and because there was no reason for searching attorney names without qualifiers, particularly in-house counsel who worked on numerous other privileged and unrelated matters. MPCA also invited Relators to provide any other additional, reasonable qualifiers they believed were necessary. Relators never responded to these suggested compromises.

¹⁴ MPCA also invited Relators to provide any other additional, reasonable qualifiers they believed were necessary. Relators never responded to these suggested compromises.



- iii. MPCA has revised its proposed search terms to accommodate Relators' demands and proposed a middle ground for search terms. In response, Relators have refused to negotiate search terms.

Accordingly, MPCA respectfully requests that the Court deny Relators' requested relief and adopt the measures MPCA has suggested for resolution of this dispute.

Sincerely,

/s/ John C. Martin

John C. Martin
Holland & Hart LLP

/s/ Maureen R. Witt

Maureen R. Witt
Holland & Hart LLP

/s/ Richard E. Schwartz

Richard E. Schwartz
Crowell & Moring LLP

EXHIBIT A**Documents Relators Challenge on MPCA's Second Updated Privilege Log**

Doc No.	Control Number	Date	Author	Recipient(s)	File Type	Description	Privilege Claim
39	SM_RELO000206	3/17/2017	Scott Kyser (MPCA) Michael R Schmidt (MPCA)		PDF	Attorney client privileged communication to receive legal advice	Attorney Client Communication Attorney Work Product
301	SM_RELO000533					DOCUMENT PRODUCED PER AGREEMENT (11/20/2019); RE-PRODUCED 12/10/2019 - MPCA(62-CV-19-4626)_020521	
308	SM_RELO000660	6/4/2018	Stephanie Handeland (MPCA)	Michael R. Schmidt Jeff Udd Richard Clark	PDF	Communication between MPCA personnel and Michael Schmidt to receive legal advice;	Attorney Client Communication Attorney Work Product
597	SM_RELO004439	5/19/2016	Michael Schmidt		Word Doc	Michael Schmidt Work Product	Attorney Client Communication
949	SM_RELO005677	7/12/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Word Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
950	SM_RELO005678	7/12/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Word Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
951	SM_RELO005679	7/12/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Word Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
952	SM_RELO005680	6/4/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Word Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
953	SM_RELO005681	7/16/2018	Michael R Schmidt (MPCA)		Word Doc	Michael Schmidt attorney work product	Attorney Client Communication Attorney Work Product
954	SM_RELO005682	6/4/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Word Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
955	SM_RELO005695	6/4/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Word Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
956	SM_RELO005696	6/4/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
957	SM_RELO005697	6/8/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
958	SM_RELO005698	7/12/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
959	SM_RELO005699	6/1/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
960	SM_RELO005700	6/28/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
961	SM_RELO005701	6/4/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
962	SM_RELO005702	6/28/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
963	SM_RELO005703	7/2/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
964	SM_RELO005704	6/18/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
965	SM_RELO005705	7/12/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
966	SM_RELO005706	7/12/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
967	SM_RELO005707	7/12/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
968	SM_RELO005708	6/1/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
969	SM_RELO005709	6/4/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
970	SM_RELO005710	6/8/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
971	SM_RELO005711	6/28/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
972	SM_RELO005712	7/17/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
973	SM_RELO005713	6/1/2018	Richard Clark (MPCA); Stephanie Handeland (MPCA); Michael R Schmidt (MPCA)		Excel Doc	Work product created at request of counsel, Michael Schmidt attorney-client communications and work product	Attorney Client Communication Attorney Work Product
1114	SM_RELO011083	12/11/2018	Jeff Udd (MPCA)	Shannon Lotthammer (MPCA)	Email	Forwarding attorney communication from Michael Schmidt and Michael Schmidt Work Product	Attorney Client Communication Attorney Work Product
1115	SM_RELO011083.0001	12/11/2018	Michael R. Schmidt (MPCA)		Email Attachment - Word Doc	Attorney Attorney Work Product regarding permit appeal	Attorney Client Communication Attorney Work Product
1117	SM_RELO011341	6/6/2018	Jeff Udd (MPCA)	Shannon Lotthammer (MPCA) Michael R. Schmidt (MPCA)	Email	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product
1118	SM_RELO011341.0001	6/6/2018	Jeff Udd (MPCA)		Email Attachment - Word Doc	Work product created at request of counsel and to receive legal advice	Attorney Client Communication Attorney Work Product
1162	SM_RELO011392	12/11/2018	Jeff Udd (MPCA)	Shannon Lotthammer (MPCA)	Email	Forwarding attorney communication and Attorney Work Product	Attorney Client Communication Attorney Work Product
1163	SM_RELO011392.0001	12/11/2018	Michael R. Schmidt (MPCA)		Email Attachment - PDF	Forwarding attorney communication and Attorney Work Product	Attorney Client Communication Attorney Work Product
1166	SM_RELO011394	5/31/2018	Michael R. Schmidt (MPCA)	Shannon Lotthammer (MPCA)	Email Attachment - PDF	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product

Doc No.	Control Number	Date	Author	Recipient(s)	File Type	Description	Privilege Claim
1168	SM_RELO011400	11/9/2018	Melissa Kuskie (MPCA)	Michelle Beeman (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA) Adonis Neblett (MPCA) CoriAhna Rude-Young (MPCA) Jeff J Smith(MPCA) Jeff Stollenwerk (MPCA)]	Email	Communication from agency personnel to attorney	Attorney Client Communication Attorney Work Product
1169	SM_RELO011401	8/16/2018	Jeff J Smith(MPCA)	Adonis Neblett (MPCA) Melissa Kuskie (MPCA) Michelle Beeman (MPCA) Jeff Stollenwerk (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA) John Stine (MPCA)	Email Attachment - PDF	Communication from agency personnel to attorney	Attorney Client Communication
1170	SM_RELO011402	8/16/2018	Michelle Beeman (MPCA)	Jeff J Smith(MPCA) Jeff Stollenwerk (MPCA) Melissa Kuskie (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA) Adonis Neblett (MPCA) John Stine (MPCA)	Email Attachment - Work Doc	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product
1171	SM_RELO011402.0001	8/16/2018	Adonis Neblett (MPCA)		Email Attachment - PDF	Attorney communication with agency personnel and work product	Attorney Client Communication Attorney Work Product
1172	SM_RELO011402.0002	8/16/2018	Adonis Neblett (MPCA)		Email Attachment - PDF	Attorney communication with agency personnel and work product	Attorney Client Communication Attorney Work Product
1247	SM_RELO011867	11/9/2018	Melissa Kuskie (MPCA)	Michelle Beeman (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA) Adonis Neblett (MPCA) CoriAhna Rude-Young (MPCA) Jeff J Smith(MPCA) Jeff Stollenwerk (MPCA)]	Email	Communication from agency personnel to attorney	Attorney Client Communication Attorney Work Product
1249	SM_RELO011869	8/16/2018	Jeff J Smith(MPCA)	Adonis Neblett (MPCA) Melissa Kuskie (MPCA) Michelle Beeman (MPCA) Jeff Stollenwerk (MPCA) Bill Sierks (MPCA) Shannon Lotthammer (MPCA) John Stine (MPCA)	Email	Communication from agency personnel to attorney	Attorney Client Communication Attorney Work Product
1250	SM_RELO011875	5/31/2018	Michael R. Schmidt (MPCA)	Shannon Lotthammer (MPCA)	Email Attachment - Work Doc	Attorney communication with agency personnel	Attorney Client Communication Attorney Work Product

EXHIBIT B**Alison C. Hunter**

From: Mike Gallegos <mgallegos@xactdatadiscovery.com>
Sent: Thursday, December 12, 2019 8:06 AM
To: Alison C. Hunter
Cc: Susan M. Mathiascheck; Brita Larsen
Subject: RE: MPCA - Document Review (33550)

External Email

Alison,

The document review attorneys performing the document review only have access to the specific Relativity database in which they are performing their review. Document review attorneys do not have any access to either data that is collected by the forensics team, or data that is being processed by the project management team. Further, these teams are operationally separate, do not work in the same offices and ordinarily have no contact across team lines. This applies at the team lead and manager level as well. As an added measure, the teams have been instructed not to discuss this project across team lines.

Thanks
Mike

Mike Gallegos | Director, eDiscovery Sales
XACT DATA DISCOVERY

T | 801.851.5284
C | 385.226.2452

30 E. Broadway Suite 300
Salt Lake City, UT 84111

XDD acquires QDiscovery to further expand services in Midwest and East Coast. [Learn more >](#)

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From: Mike Gallegos
Sent: Wednesday, December 11, 2019 1:08 PM
To: eDiscovery Project Management Team (xpet@xactdatadiscovery.com) <xpet@xactdatadiscovery.com>
Cc: Susan M. Mathiascheck <SMMathiascheck@hollandhart.com>; Brita Larsen <BBLarsen@hollandhart.com>; Steven Deibert <sdeibert@xactdatadiscovery.com>; 'Alison C. Hunter' <ACHunter@hollandhart.com>
Subject: RE: MPCA - Document Review (33550)

XPET –

EXHIBIT B

Attached is the Amended List of Proposed Search Terms. See details from Alison below. Please follow up with her directly if you have questions. Please include Steven Deibert on these communications as the results of these searches need to be reviewed by the XDD Review Team.

Alison,

I'll confirm the segregation in a separate email.

Mike

From: Alison C. Hunter <ACHunter@hollandhart.com>
Sent: Wednesday, December 11, 2019 1:03 PM
To: Mike Gallegos <mgallegos@xactdatadiscovery.com>
Cc: Susan M. Mathiascheck <SMMathiascheck@hollandhart.com>; Brita Larsen <BBLarsen@hollandhart.com>
Subject: MPCA - Document Review

Mike,

Attached please find MPCA's proposed list of search terms we would like Xact to run and then promote the identified documents for review for responsiveness and privilege. The Court's order states that the "time frame of the forensic search is July 11, 2016 through the date that John Linc Stine, Shannon Lotthammer, and Ann Foss left their MPCA employment." Shannon Lotthammer was the last employee to leave her employment in February 2019. Therefore, please limit the search to documents from July 16, 2016 to March 1, 2019, which is slightly more inclusive than the Court's order.

The parties have not yet agreed to finalized search terms. My understanding is that to the extent the finalized search terms are more expansive than what is included in the attached list, Xact can easily run the finalized search terms and promote all additional documents identified by the finalized search terms for review so that all documents identified by the finalized search terms will be reviewed. Please let me know immediately if my understanding is incorrect.

Please also confirm that the attorney review process for responsiveness and privilege is fully segregated from the document collection process that Xact performed for Relators and MPCA jointly. There should be no communication between the document reviewers that MPCA has contracted to review the documents and the collection team that was responsible for collecting the data regarding this matter or the work they are performing on this matter.

Thanks,
Alison

Alison Hunter

Associate, Holland & Hart LLP
800 W. Main Street, Suite 1750, Boise ID 83702
T 208.383.3985 F 208.392.1636



CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail.

EXHIBIT C**Alison C. Hunter**

From: Alison C. Hunter
Sent: Wednesday, December 11, 2019 1:23 PM
To: 'Evan Nelson'
Cc: Susan M. Mathiascheck; John C. Martin; Schwartz, Rich; Maureen R. Witt
Subject: FW: MPCA - Document Review
Attachments: MPCA - 2019-12-11 Amended List of Proposed Search Terms.docx

Evan:

As a courtesy given the concerns Relators have raised regarding MPCA's retention of Xact for document review, please see the below communication that was just sent to Xact regarding document review that is necessary meet the Court's production deadline while the parties continue to finalize search terms.

Best,
Alison

Alison Hunter

Associate, Holland & Hart LLP
800 W. Main Street, Suite 1750, Boise ID 83702
T 208.383.3985 F 208.392.1636



CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail.

From: Alison C. Hunter
Sent: Wednesday, December 11, 2019 1:03 PM
To: 'Mike Gallegos' <mgallegos@xactdatadiscovery.com>
Cc: Susan M. Mathiascheck <SMMathiascheck@hollandhart.com>; Brita Larsen <BBLarsen@hollandhart.com>
Subject: MPCA - Document Review

Mike,

Attached please find MPCA's proposed list of search terms we would like Xact to run and then promote the identified documents for review for responsiveness and privilege. The Court's order states that the "time frame of the forensic search is July 11, 2016 through the date that John Linc Stine, Shannon Lotthammer, and Ann Foss left their MPCA employment." Shannon Lotthammer was the last employee to leave her employment in February 2019. Therefore, please limit the search to documents from July 16, 2016 to March 1, 2019, which is slightly more inclusive than the Court's order.

The parties have not yet agreed to finalized search terms. My understanding is that to the extent the finalized search terms are more expansive than what is included in the attached list, Xact can easily run the finalized search terms and promote all additional documents identified by the finalized search terms for review so that all documents identified by the finalized search terms will be reviewed. Please let me know immediately if my understanding is incorrect.

Please also confirm that the attorney review process for responsiveness and privilege is fully segregated from the document collection process that Xact performed for Relators and MPCA jointly. There should be no communication

EXHIBIT C

between the document reviewers that MPCA has contracted to review the documents and the collection team that was responsible for collecting the data regarding this matter or the work they are performing on this matter.

Thanks,
Alison

Alison Hunter

Associate, Holland & Hart LLP

800 W. Main Street, Suite 1750, Boise ID 83702

T 208.383.3985 F 208.392.1636



CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail.

EXHIBIT CAmended Proposed Search Terms

December 11, 2019

1. “Adonis Neblett” or Adonis or Neblett AND (Poly! or Poly Met or EPA)
2. “Ann Foss” or Foss¹
3. Babbitt or “Hoyt Lakes”
4. “Barbara Wester” or Wester
5. “Barr Engineering” or Barr
6. “Brian Schweiss” or Schweiss
7. “Cathy Stepp” or Stepp
8. “Candice Bauer” or Candice or Bauer
9. “Christopher Korleski” or Korleski
10. (“Clean Water Act” or NPDES!) and enforce!
11. Commissioner and (Poly! or “Poly Met” or PMet or NorthMet or “North met” or NorthMet or “North Met” or EPA.gov or Stepp or Thiede or “Brad Moore” or Kearney)
12. (“Cliffs Erie” or “Cliff’s Erie”)
13. (“Data Practice!” or DPA) and (Poly! or “Poly Met” or PMet or NorthMet or “North met” or NorthMet or “North Met”)
14. “Dennis Donohue” or Donohue
15. “Don Richards”
16. (EPA or EPA.gov or DPA) and (Poly! or Poly Met)
17. (“EPA Region 5” or Region 5 or R5) and (comment or concern or mercury or object! or permit or “permit shield” or “public comment” or “public notice” or TBEL or “water quality standard” or WQBEL)
18. “Jeff! Smith”
19. “Jeff! Udd” or Udd
20. “Jillian Rountree” or Rountree
21. “John Martin” AND (“Poly! or Poly Met or EPA)
22. “Jon Cherry” or Cherry
23. “John Stine” or “John Linc Stine” or Stine
24. “Kevin Pierard” or Pierard
25. “Kurt Thiede” or Thiede
26. “Krista McKim” or Krista or McKim
27. “Linda Holst” or Holst
28. LTV or LTVSMC
29. “Mark Ackerman” or Ackerman
30. “Mark Compton” or Compton
31. “Memorandum of Agreement” or “Memorandum of Understanding”
32. “Michael Schmidt” or “Mike Schmidt” or Schmidt AND (“Poly! or Poly Met or EPA)
33. “Michelle Beeman” or Beeman AND (“Poly! or Poly Met or EPA)
34. Mining and (copper or sulfide or PGE)
35. MOA or MOU

¹ Search term not to be used when searching Ann Foss’s User File.

EXHIBIT C

36. NPDES! and (“draft permit!” or “pre-public notice” or “public notice” or proposed or pre-proposed or WQBEL or TBEL or “operating limits” or “permit shield”)
37. NPDES! and (Poly! or “Poly Met” or PM! or NorthMet or “North met” or NorthMet or “North Met”)
38. “permit modification”
39. “PM permit!”
40. “Poly Met” or PMet or NorthMet or “North met” or NorthMet or “North Met”
41. “Rebecca Flood” or Flood AND (“Poly! or Poly Met or EPA)
42. “Richard Clark” or “Rich Clark”
43. “Richard Schwartz” or “Rich Schwartz” or Schwartz AND (“Poly! or Poly Met or EPA)
44. “Robert Kaplan” or Kaplan
45. “Scott Ireland” or Ireland
46. “Scott Kyser” or Kyser
47. “Shannon Lotthammer” or Shannon or Lotthammer or shannon.lotthammer@state.mn.us AND (Poly* OR EPA)²
48. “Stephanie Handeland” or Steph or Stephanie or Handeland AND (Poly* OR EPA)
49. “T. Leverett Nelson” or Leverett or (Rett w/in 2 Nelson)
50. (“Water Quality” and permit and comment) or “Water Quality Permit” or WQ Permit

² Search term not to be used when searching Shannon Lotthammer’s User File.

EXHIBIT DAmended Relators' Proposed Search Terms for Forensic ExaminationDecember 910, 2019

1. "Adonis Neblett" or Adonis or Neblett AND (Poly! or Poly Met or EPA)
2. "Ann Foss" or ~~Ann or~~ Foss¹
3. Babbitt or "Hoyt Lakes"
4. "Barbara Wester" or Wester
5. "Barr Engineering" or Barr
6. "Brian Schweiss" or ~~Brian or~~ Schweiss
7. "Cathy Stepp" or ~~Cathy or~~ Stepp
8. "Candice Bauer" or Candice or Bauer
9. "Christopher Korleski" or ~~Chris or~~ Korleski
10. ("Clean Water Act" or NPDES!) and enforce!
11. Commissioner and (Poly! or "Poly Met" or PMet-PM! or NorthMet or "North met" or NorthMet or "North Met" or EPA.gov or Stepp or Thiede or "Brad Moore" or Kearney)
12. ("Cliffs Erie" or "Cliff's Erie" ~~or "Cliffs"~~)
13. ("Data Practice!" or DPA) and (Poly! or "Poly Met" or PMetPM! or NorthMet or "North met" or NorthMet or "North Met")
14. "Dennis Donohue" or Donohue
15. "Don Richards" ~~or Richards~~
16. (EPA or EPA.gov or DPA) and (Poly! or Poly Met)
17. ("EPA Region 5" or Region 5 or R5) and (comment or concern or ~~CSW or draft or~~ mercury or object! or permit or "permit shield" or "public comment" or "public notice" or ~~stormwater or~~ TBEL or "water quality standard" or WQBEL)
18. "Jeff! Smith" ~~or Smith~~
19. "Jeff! Udd" or Udd
20. "Jillian Rountree" or Rountree
21. "John Martin" ~~or Martin~~ AND ("Poly! or Poly Met or EPA)
22. "Jon Cherry" or Cherry
23. "John Stine" or "John Linc Stine" or Stine
24. "Kevin Pierard" or ~~Kevin or~~ Pierard
25. "Kurt Thiede" or ~~Kurt or~~ Thiede
26. "Krista McKim" or Krista or McKim
27. "Linda Holst" or Holst
28. LTV or LTVSMC
29. "Mark Ackerman" or Ackerman
30. "Mark Compton" or Compton
31. "Memorandum of Agreement" or "Memorandum of Understanding"
32. "Michael Schmidt" or "Mike Schmidt" or Schmidt AND ("Poly! or Poly Met or EPA)
33. "Michelle Beeman" or Beeman AND ("Poly! or Poly Met or EPA)
34. Mining and (copper or sulfide or PGE)
35. MOA or MOU

¹ Search term not to be used when searching Ann Foss's User File.

EXHIBIT D

36. NPDES! and (“draft permit!” or “pre-public notice” or “public notice” or proposed or pre-proposed or WQBEL or TBEL or “operating limits” or “permit shield”)
37. NPDES! and (Poly! or “Poly Met” or PM! or NorthMet or “North met” or NorthMet or “North Met”)
38. ~~Permit and modifi!~~ “permit modification”
39. “PM permit!”
40. ~~Poly! or~~ “Poly Met” or PMet or PM! ~~or~~ NorthMet or “North met” or NorthMet or “North Met”
41. “Rebecca Flood” or Flood AND (“Poly! or Poly Met or EPA)
42. “Richard Clark” or “Rich Clark” ~~or Clark~~
43. “Richard Schwartz” or “Rich Schwartz” or Schwartz AND (“Poly! or Poly Met or EPA)
44. “Robert Kaplan” or Kaplan
45. “Scott Ireland” or Ireland
46. “Scott Kyser” or Kyser
47. “Shannon Lotthammer” or Shannon or Lotthammer or shannon.lotthammer@state.mn.us
AND (Poly* OR EPA)²
48. “Stephanie Handeland” or Steph or Stephanie or Handeland AND (Poly* OR EPA)
49. “T. Leverett Nelson” or Leverett or (Rett or w/in 2 Nelson)
50. (“Water Quality” and permit and comment) or “Water Quality Permit” or WQ Permit

² Search term not to be used when searching Shannon Lotthammer’s User File.

EXHIBIT E**Search Terms to Which the Parties Agree**

1. “Ann Foss”¹
2. Foss²
3. Babbitt or “Hoyt Lakes”
4. “Barbara Wester”
5. Wester
6. “Barr Engineering”
7. Barr
8. “Brian Schweiss”
9. Schweiss
10. “Cathy Stepp”
11. Stepp
12. “Candice Bauer”
13. Candice
14. Bauer
15. “Christopher Korleski”
16. Korleski
17. “Clean Water Act” and enforce!
18. NPDES! and enforce!
19. Commissioner and Poly!
20. Commissioner and “Poly Met”
21. Commissioner and NorthMet
22. Commissioner and “North met”
23. Commissioner and “North Met”
24. Commissioner and EPA.gov
25. Commissioner and Stepp
26. Commissioner and Thiede
27. Commissioner and Kearney
28. “Cliffs Erie”
29. “Cliff’s Erie”
30. “Data Practice!” and Poly!
31. “Data Practice!” and “Poly Met”
32. “Data Practice!” and NorthMet
33. “Data Practice!” and “North met”
34. “Data Practice!” and “North Met”
35. DPA and Poly!
36. DPA and “Poly Met”
37. DPA and NorthMet
38. DPA and “North met”
39. DPA and “North Met”
- 40.

¹ Search term not to be used when searching Ann Foss’s User File.

² Search term not to be used when searching Ann Foss’s User File.

EXHIBIT E

41. “Dennis Donohue”
42. Donohue
43. “Don Richards”
44. EPA and Poly!
45. EPA and Poly Met
46. EPA.gov and Poly!
47. EPA.gov and Poly Met
48. DPA and Poly!
49. DPA and Poly Met
50. EPA Region 5” and comment
51. “Region 5” and comment
52. R5 and comment
53. “EPA Region 5” and concern
54. “Region 5” and concern
55. R5 and concern
56. “EPA Region 5” and mercury
57. “Region 5” and mercury
58. R5 and mercury
59. “EPA Region 5” and object!
60. “Region 5” and object!
61. R5 and object!
62. “EPA Region 5” and permit
63. “Region 5” and permit
64. R5 and permit
65. “EPA Region 5” and “permit shield”
66. “Region 5” and “permit shield”
67. R5 and “permit shield”
68. “EPA Region 5” and “public comment”
69. “Region 5” and “public comment”
70. R5 and “public comment”
71. “EPA Region 5” and “public notice”
72. “Region 5” and “public notice”
73. R5 and “public notice”
74. “EPA Region 5” and TBEL
75. “Region 5” and TBEL
76. R5 and TBEL
77. “EPA Region 5” and “water quality standard”
78. “Region 5” and “water quality standard”
79. R5 and “water quality standard”
80. “EPA Region 5” and WQBEL
81. “Region 5” and WQBEL
82. R5 and WQBEL
83. “Jeff! Smith”
84. “Jeff! Udd”
85. Udd
86. “Jillian Rountree”

EXHIBIT E

87. Rountree
88. "Jon Cherry"
89. Cherry
90. "John Stine"
91. "John Linc Stine"
92. Stine
93. "Kevin Pierard"
94. Pierard
95. "Kurt Thiede"
96. Thiede
97. "Krista McKim"
98. Krista
99. McKim
100. "Linda Holst"
101. Holst
102. LTV
103. LTVSMC
104. "Mark Ackerman"
105. Ackerman
106. "Mark Compton"
107. Compton
108. "Memorandum of Agreement"
109. "Memorandum of Understanding"
110. Mining and copper
111. Mining and sulfide
112. Mining and PGE
113. MOA
114. MOU
115. NPDES! and "draft permit!"
116. NPDES! and "pre-public notice"
117. NPDES! and "public notice"
118. NPDES! and proposed
119. NPDES! and pre-proposed
120. NPDES! and WQBEL
121. NPDES! and TBEL
122. NPDES! and "operating limits"
123. NPDES! and "permit shield"
124. "PM permit!"
125. "Poly Met"
126. NorthMet
127. "North met"
128. NorthMet
129. "North Met"
130. "Richard Clark"
131. "Rich Clark"
132. "Robert Kaplan"

EXHIBIT E

133. Kaplan
134. "Scott Ireland"
135. Ireland
136. "Scott Kyser"
137. Kyser
138. "T. Leverett Nelson"
139. Leverett
140. "Water Quality Permit"
141. WQ Permit

Relators' Proposed Search Terms To Which MPCA Objects Absent Additional Qualifiers

1. "Adonis Neblett"
2. Adonis
3. Neblett
4. Ann
5. Brian
6. Cathy
7. Chris
8. Commissioner AND PM!
9. Commissioner and Brad
10. Cliffs
11. "Data Practice!" and PM!
12. DPA and PM!
13. Richards
14. "EPA Region 5" and CSW
15. "Region 5" and CSW
16. R5 and CSW
17. "EPA Region 5" and draft
18. "Region 5" and draft
19. R5 and draft
20. "EPA Region 5" and stormwater
21. "Region 5" and stormwater
22. R5 and stormwater
23. Smith
24. "John Martin"
25. Martin
26. Kevin
27. Kurt
28. "Michael Schmidt"
29. "Mike Schmidt"
30. Schmidt
31. "Michelle Beeman"
32. Beeman

EXHIBIT E

33. Poly!
34. PM
35. “Rebecca Flood”
36. Flood
37. Clark
38. “Richard Schwartz”
39. “Rich Schwartz”
40. Schwartz
41. “Shannon Lotthammer”
42. Shannon
43. Lotthammer
44. shannon.lotthammer@state.mn.us
45. “Stephanie Handeland”
46. Steph
47. Stephanie
48. Handeland
49. Rett
50. Nelson
51. “Water Quality” and permit